

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KATHLEEN KAFER,

Plaintiff,

-against -

UNITED STATES OF AMERICA,

Defendant.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 08/20/08

08 Civ. 544 (KNF)
ECF Case

**STIPULATION AND ORDER OF
SETTLEMENT AND DISMISSAL**

IT IS HEREBY STIPULATED AND AGREED by and between Plaintiff Kathleen Kafer ("Plaintiff") and the United States of America (the "United States"), that Plaintiff's claims against the United States in the above-titled action be settled and compromised on the following terms and conditions:

1. Plaintiff's claims against the United States in the above-captioned action are hereby dismissed with prejudice, and without costs, expenses, or fees to any party, except as specified in paragraph "2" below.
2. The United States agrees to pay Plaintiff the total sum of FIFTEEN THOUSAND DOLLARS (\$15,000) (the "Settlement Amount").
3. Payment of the Settlement Amount as set forth in paragraph "2" shall be made only after execution by the parties and entry by the Court of this Stipulation.

4. Plaintiff agrees to accept the Settlement Amount in full settlement and satisfaction of any and all claims and demands that she, or her heirs, executors, administrators or assigns had or may hereinafter acquire against the United States, or any present or former department, agency, agent, official, or employee of the United States on account of the events, circumstances, or incidents giving rise to this lawsuit and claims incident thereto, namely Plaintiff's slip and fall on the premises of the Statue of Liberty National Monument, Liberty Island, New York, on January 19, 2007 (the "January 19th Accident").

5. Plaintiff hereby releases and forever discharges the United States, including its departments, agencies, agents, officials, and employees, from any and all claims and liability arising directly or indirectly from the subject matter of this action.

6. Plaintiff agrees to indemnify and hold harmless the United States, including its departments, agencies, agents, officials, and employees from any and all causes of action, claims, rights, or subrogated interests arising directly or indirectly from the subject matter of this action, including any claims arising from the assignment of claims and liens upon the settlement proceeds, and further agrees to reimburse or advance, at the option of counsel for the United States, any expense or cost that may be incurred incident to or resulting from such further litigation or the prosecution of claims by Plaintiff against any third party.

7. Settlement of Plaintiff's claims against the United States is to be without interest or costs and inclusive of attorneys' fees in accordance with 28 U.S.C. § 2678, and all liens and fees are to be satisfied by Plaintiff out of the amount of this settlement.

8. Nothing contained in this Stipulation herein shall be deemed to be an admission of liability or fault on the part of the United States, or any of its present or former departments, agencies, agents, official or employees, nor shall it be deemed to be an admission that they have acted in any manner or way that was negligent in connection with the January 19th Accident or were the cause of any injuries sustained by Plaintiff in connection with that accident. This Stipulation shall not be admissible with respect to, nor is it related to, any other litigation or settlement negotiations.

9. Plaintiff and the United States understand and agree that this Stipulation contains the entire agreement between them, and that any statements, representations, promises, agreements, or negotiations, oral or otherwise, between the parties or their counsel that are not included herein shall be of no force or effect.

10. This Stipulation may be executed in counterparts.

Dated: Forest Hills, New York
August 15, 2008

NEWMAN, ANZALONE &
ASSOCIATES LLP
Attorneys for Plaintiff

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Dated: New York, New York
August 19, 2008

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Dated: Albany, New York
August 7, 2008

Kathleen Kafes
KATHLEEN KAVER

SO ORDERED: 8/20/08

Kevin Nathaniel Fox
THE HONORABLE KEVIN NATHANIEL FOX
UNITED STATES MAGISTRATE JUDGE